

**Town of East Windsor  
Conservation Commission/  
Inland Wetland Watercourse Agency  
Town Hall, 11 Rye Street, P.O. Box 389, Broad Brook, CT 06016  
Tel: (860) 623-2302 Fax: (860) 623-4798**

**MINUTES OF REGULAR MEETING  
July 6, 2005**

**I. CALL TO ORDER**

Chairman Maslak called the meeting to order at 7:39 p.m. at the Broad Brook School.

**II. ESTABLISHMENT OF QUORUM**

Present: John Maslak, Chairman, Linda Kehoe, Michael Koczera, Michael Ceppetelli, Richard Osborn and Janice Warren

Unable to Attend: John Sawka, John Malin, Rene Thibodeau

Also Present: Nancy Rudek, Zoning Enforcement Officer

**III. APPROVAL OF MINUTES**

**MOTION:** To approve the June 1, 2005 minutes with the following correction,  
Page 4, Motion for 93 Depot Street should read as follows: “To **approve** the application for 93 Depot Street, Meadow Farms with the following condition: The conservation easement is acceptable to the wetlands agent.”  
Made by Mr. Koczera, seconded by Mr. Osborn  
In favor: Maslak, Koczera, Ceppetelli, Osborn  
Abstain: Kehoe

**IV. AGENDA ADDITIONS – None.**

**V. PUBLIC HEARINGS (on Inland Wetland applications)**

- A. 247 Rye Street (Farnham Estates) – Continued public hearing on the application of KF Realty LLC to conduct regulated activities associated with an 8 lot planned residential development. Total parcel is 16.88 acres, served by public water and septic system. Total wetland disturbance is 0.002 acres.  
(Granted 35-day extension to close hearing, ends 7/13/05)

**MOTION:** To reopen the public hearing for 247 Rye Street (Farnham Estates)  
Made by Mr. Koczera, seconded by Ms. Kehoe  
**ALL MEMBERS IN FAVOR. MOTION CARRIED**

For the record:

- North Central District Health Department letter dated May 31, 2005;
- North Central Conservation District, Inc. letter dated May 31, 2005
- Design Professionals, Inc. letter dated June 28, 2005;
- Memo from Nancy J. Rudek dated June 30, 2005 re: Farnham Estates – Filing of Intervention (with attachments);
- REMA Ecological Services July 6, 2005 Report.

Present for the applicant:

Galen Semperbon from Design Professionals  
Attorney Harold Cummings

Present for the Intervening Filer, John W. Thompson and Madeleine P. Thompson, as well as a coalition of 11 households called “Friends of Ketchbrook”:

Attorney Amy Blaymore Patterson  
George Logan and Sigrun Gadwa of REMA Ecological Services

Mr. Semperbon came before the Commission and presented plans. He presented the North Central Health District letter of 5/18/05 approving all the lots, including lot 5; he outlined compliance with the Town Engineer’s Comments in his May 18, 2005 memo, as well as the Town Engineer’s memo of 5/23/05 that his comments were adequately addressed; a conservation easement has been added to open space and the idea of positioning a storm drain on Rye Street was investigated and found it would not work due to undesirable discharge into the wetlands. Mr. Semperbon detailed the necessity for PZC waivers, not variances, to the four rear lots. A North Central Conservation District letter dated May 31, 2005 addresses the TE soil issues. The layout of Lot 5 was unique due to slopes on the property. An alternate layout, dated June 28, 2005, outlines a traditional house which falls outside the 150’ regulated area.

Attorney Cummings introduced himself as an attorney for the applicant. He questioned if the Commission had yet granted the Intervening status? Discussions ensued with the applicants attorney and the ZEO regarding the Commission’s ability to accept the Intervener as part of the record. In reference to the intervening filer he cited case law, specifically Nizzardo v. State Traffic Commission et al., 259 Conn. 131; and Riverbend Assoc v. IWWC, 269 Conn 57. Attorney Cummings referenced the case law and its place with the Commissions charge and outlined that there has to be a substantial level and specific evidence in the record that reflect activities would create an adverse impact. Testimony given that contains speculation, fear and concerns is not substantial evidence.

Ms. Rudek indicated her memo to the Commission dated June 30, 2005 regarding the Intervening Filer was reviewed by the Town Attorney and made based on his comments. She stated the Commission has a history of making good justified decisions on verified pleadings and no intimidation was needed.

**MOTION: To accept the Petition for Intervention dated June 29, 2005**

**Made by Ms. Osborn, seconded by Ms. Kehoe**

**ALL MEMBERS IN FAVOR. MOTION CARRIED.**

Attorney Patterson introduced herself as the attorney for the Intervening Filer, John W. Thompson and Madeleine P. Thompson, as well as a coalition of 11 households called "Friends of Ketchbrook". She did not dispute the housekeeping measures of Attorney Cummings in introducing the Nizzardo case, but rebutted that the Town also had substantive statutes and town regulations to consider and the criteria was there if substantive evidence was present for a denial. She outlined the ability of the Commission to be able to look at wildlife impact in conjunction with its surroundings and changes in physical characteristic to wetlands and watercourse. This causal link will be made by experts, not through generalizations, inference and/or speculation. Ms. Patterson introduced the Intervener's experts from REMA Ecological Services.

George Logan and Sigrun Gadwa of REMA Ecological Services provided the Commission with their credentials and background with coming on board with this case as experts for the Intervening Filers. Extensive testimony was given by both outlining and explaining the report dated July 6, 2005, which is part of the record for this application. They have not yet seen the revised plans for this project as discussed tonight by the applicant. Mr. Logan concluded his testimony by stating from the perspective of a technical scientist this is no doubt difficult to build without short term and/or long term effect. His perspective through gut feeling is trepidation mirroring neighborhood concern, and a difficult problem with building on slopes. He feels there is information missing from the applicant and that a reasonable and prudent alternative with less impact can be proposed. His opinion is there is a reasonable likelihood of unreasonable pollution.

Attorney Patterson commented that the Interveners and experts have not had a chance to review the revised plans and can only wrap up the evening's testimony based on what they have seen to date and any new information presented the Interveners have a right to comment on.

Attorney Cummings asked Mr. Semprebon to outline what revisions are on the revised plans. Mr. Semprebon clarified that not much was revised. Revisions had to do with the location of the septic on lot 5, additional soil testing on other lots, all else is the same unless just specific health code issues addressed. The walking path was removed from the plan as it was a problem for the residents. Mr. Semprebon's response to tonight's testimony would be relatively simply as he felt the expert testimony given was boiler plate report. His response will be given at the next meeting.

Marshall Lomenzo, 380 Timrod Road, Manchester, CT

Mr. Lomenzo is the former owner of this land. He submitted a letter and then outlined the history of his 1989 application for a double rear lot subdivision on 3.4 acres behind 257 Rye Street. Perk tests were enormously rapid for the two lots septic/well, the whole property is natural glacial gravel deposit. North Central doubled the distance 150 of septic and well sites. PZC denied the application as the project was too ambitious for this unstable site. The house is 150' above sea level, the drop to Ketchbrook is almost 50' below sea level. The main house has septic, 1,000 gallons 200 feet from the house, but he did not know where the leech field was. Early attempts to use a log road to gather fire wood, an access to Ketchbrook, were soggy. You could not use the road unless it was frozen. New Year's Day 1979 had a winter thaw, there was a severe continuous flood from the house to the barn, a river right through the barn. A diversion ditch was constructed to avoid water flood conditions, it works well and all the water runs off the hill.

Albert Grant, Melrose Road

Mr. Grant is a member of the Scantic River Watershed Association. As a layman looking at the plan the slopes are steep and there is a concern on the effect of water flow of the Scantic River.

Attorney Patterson indicated Mr. Thompson spoke at a public hearing previously as a member of the public, but he would like to address the Commission again during public hearing as an Intervener, addressing a new point.

John Thompson, 259 Rye Street

Mr. Thompson gave his background as a retired civil engineer with 32 years experience, with an extensive background in soils. He has had discussions with David Askew on the TE slopes. Mr. Askew agrees TE slopes are there, but feels based on 55 year old maps the TE failure rate is medium. Mr. Thompson disagrees and feels the failure rates are high. He felt this project was disastrous to the environment, the Town and the owner. He stated there have been numerous slope failures in E.W. and S.W. and remedial work is expensive. He lastly outlined a recent TE slope failure about ½ mile Southeast, which occurred late last Spring/early Summer. He stated slope failure can and will happen. Mr. Thompson outlined the slope failure location on the plan for the Commission – it is the opposite slope of Ketch Valley, possible owner Mary Nielson or buffer zone owner of land fill.

It was inquired if the Town could have an independent soil scientist, with no venture in the action, look at the site. This was done by the Soil District and their findings are outlined in their May 31, 2005 correspondence.

Ms. Kehoe stated that outside the public hearing three members of the public had approached her and had a conversation with her about the property in her capacity as a community tree volunteer. She referred these individuals to the appropriate agency and advised she could not discuss the wetlands application with these people outside the public hearing.

All parties discussed the timeframe remaining for the public hearing. Attorney Cummings advised that as the applicant has retained Ed Pollock, a soil scientist of West Hartford, but he was not available to attend tonight's meeting. The applicant was putting for a request for extension so Mr. Pollock could address issues raised this evening. Attorney Patterson outlined that Mr. Logan would not be able to be present at the August 3<sup>rd</sup> meeting either, but Ms. Gadwa would be available to cover. It was requested that any report from Mr. Pollock be presented in enough time prior to the August meeting to allow Mr. Logan and Ms. Gadwa to prepare a rebuttal. Mr. Cummings acknowledged the request. The idea of a special meeting of the Commission was discussed, as Attorney Cummings indicated he cannot make the August 3<sup>rd</sup> meeting due to a previous commitment. The public hearing was opened on May 4<sup>th</sup>, parties calculated they had until August 12 to be in compliance with the statute to close the public hearing. The Commission is going to adhere to the regular meeting schedule and reports given tonight and received in the interim will be addressed at the regular August meeting.

The applicant provided a letter to the Commission requesting a thirty day extension.

**MOTION: To grant a 30 day extension to close the hearing on 247 Rye Street (Farnham Estates), as requested by the applicant, in writing.**

**Made by Mr. Osborn, seconded by Mr. Koczera**

**ALL MEMBERS IN FAVOR. MOTION CARRIED.**

Several items were requested for the next meeting:

- Topsoil stock pile location is close to the slopes, need the anticipated amount of topsoil stockpiled and the detention method to keep in place during construction phase;
- There are three different seed mixtures noted, would like to see on the plan where the different types are used, a shaded mapping;
- REMA experts outlined an alternate method to treat septic to eliminate nitrates in the soil, interested in information on that;
- Interested in seeing the prudent and feasible alternative plans for use of the parcel as outlined by Mr. Logan

- Requested the Connecticut Natural Diversity Database information referenced;
- Interested in the applicant's response to Mr. Logan's report as there is clear contradictions between the parties regarding the T/E slopes.
- Access and maintenance of the basin needs to be addressed.

**MOTION: To table the public hearing until the August 3<sup>rd</sup> regular meeting**  
**Made by Mr. Koczera, seconded by Ms. Kehoe**  
**ALL MEMBERS IN FAVOR. MOTION CARRIED.**

Recess 9:30 – 9:40 p.m.

B. 130 Newberry Road – Continued public hearing on the application of BT Properties, LLC to conduct regulated activities associated with the construction of a 10,382 s.f. commercial building with associated parking and storage for a landscaping business. Total parcel is 30.71 acres, served by public water and sewer and is located on the west side of Winkler Road and the south side of Newberry Road. Total wetland disturbance is 4,378 square feet. (35-day deadline to close hearing ends 7/6/05)

**MOTION: To reopen the public hearing for 130 Newberry Road**  
**Made by Mr. Koczera, seconded by Ms. Kehoe**  
**ALL MEMBERS IN FAVOR. MOTION CARRIED**

Jay Ussery of J.R. Russo & Associates and Michael Gragnolati, along with applicants Rich Beebe and Ralph Thomas came before the Board and reviewed the watercourse and its route on the property and presented plans for the application. The plans were delineated in detail for the Commission, as well as the wetland disturbance. It was outlined where specific operations were to take place for this landscaping business on what portions of the property and the proximity to wetlands in question. Mr. Ussery presented details as to the style and location of proposed drainage on the site. It was inquired why the applicant is not entering the back of the property, where there is an intermittent watercourse, and put the storm drainage easement there? It was explained that idea was not plausible due to steep grades and fill would be needed.

Michael Gragnolati presented detailed testimony as to the type of wetlands and wetland vegetation present. He outlined the timeframe within which he monitored the ponds on site and determined there were not vernal pools present. Mr. Gragnolati's letter dated May 3, 2005, as well as the Town Engineer, Len Norton's comments were submitted for the record.

Resident, 101 Winkler Road

He had a concern that if the wetland is filled in the water would run off onto his property. He had a situation previously where another property filled in and the result was water in his basement.

Mr. Ussery outlined the properties discussed and how the property was high at the street and where the property drains (westerly). It was his opinion that minor filling would not effect drainage of the water table on this man's property.

Discussion ensued regarding the site and its wetlands and the potential for a conservation easement on this piece. The applicant voiced the idea of possible future harvesting of wetland nursery plants, so concerns were raised on how a conservation easement may limit that activity, but the applicant has no set or firm ideas in this regard as yet, so could not provide specifics as to the potential operation. Conservation easements and what

these entail were discussed, as well as a conservation easement tailored to allow the applicant potential in the future for the wetland nursery planting concept. Also discussed was the potential introduction of foreign species into the wetland with nursery growing, but any items grown would grow in the vicinity b/c they are native to the area. The Commission was interested in a conservation easement, especially in light of future owners with different intent for the property.

This is not a retail operation, the stock on site is for their use. They double ground hemlock mulch, not red dye mulch, so potential concerns with dye in the wetlands was allayed. The current zone for this piece is M-1. Timeframes for this project and applications before other land use agencies was discussed.

**MOTION: To close the public hearing at 10:53 p.m.**

**Made by Ms. Kehoe, seconded by Mr. Koczera**

**ALL MEMBERS IN FAVOR. MOTION CARRIED.**

**MOTION: To approve the application of 130 Newberry Road with the following condition: to apply a conservation easement of all wetland boundaries east of wetland flag #82, including modifications regarding harvesting wetland plants, finalized pending review and approval of conservation easement wording by the Commission Chairman and Zoning Enforcement Agent.**

**Made by Ms. Kehoe, seconded by Mr. Osborn**

**ALL MEMBERS IN FAVOR. MOTION CARRIED.**

Recess taken from 10:55 p.m. to 11:00 p.m.

## **VI. CONTINUED APPLICATIONS OR BUSINESS**

### **\* Inland Wetland Permit to Conduct Regulated Uses**

- A. 16 Shoham Road – Continued application of TRI-KR Realty, LLC to conduct regulated activities involving the expansion of existing commercial parking lot, construction of a retaining wall and associated grading. Total parcel is 8.36 acres, served by public water and sewer. (65-day application period ends 8/5/05)

Ms. Kehoe oversaw this application, Chairman Maslak stepped down. Michael Gragnolati, Soil Scientist and George Nicks, who appeared on behalf of Dave Palmberg, came before the Commission and presented plans for the additional parking area proposed. The retaining wall, grading and 100 year storm calculations were discussed. The Town Engineer has signed off on the proposed project. S&E controls were discussed. The current parking area has trash in the existing buffer between the wetlands, this project eliminates that buffer, so a chain link fence between the parking lot and the wetland was suggested to avoid trash in the wetland.

**MOTION: To approve the application of TRI-KR Realty, LLC at 16 Shoham Road, with the following condition: a chain link fence be added along the top of the retaining wall, not need to exceed four feet, with the intention to detain refuse from entering the wetlands.**

**Made by Mr. Ceppetelli, seconded by Ms. Warren**

**IN FAVOR: Kehoe, Koczera, Ceppetelli, Osborn and Warren**

**Abstained: Maslak**

**MOTION CARRIED.**

B. 329 Scantic Road (Victory Estates) – Continued application of Victory Outreach Ministries, Inc. to conduct regulated activities associated with a 44-unit Active Adult Housing Development. Total parcel is 35± acres (East Windsor) and 27± acres (South Windsor). (65-day application period ends 8/5/05)

Jay Ussery of JR Russo & Associates and Michael Gragnolati, Soil Scientist came before the Commission and outlined the location and history of the site, as well as the plans for this project which exists in East Windsor and South Windsor, with a majority of the project and any wetland related issues in South Windsor. It was explained that the South Windsor Inland Wetland Commission approved the project with a condition that resulted in the current application. The subject application is an armorment of a channel which will have increased water flow through it. The various scenarios presented to South Windsor were discussed in detail with this Commission. This will be a challenging area to enter and work will be done by hand due the nature of the location. Also an easement will need to be obtained by an adjoining property owner

**MOTION: To approve the application of 329 Scantic Road with the following conditions: (1) pending obtaining right to drain easement from the adjoining property owner; and (2) concurrence with Town of South Windsor's conditions of approval.**

**Made by Ms. Kehoe, seconded by Mr. Osborn**

**ALL MEMBERS IN FAVOR. MOTION CARRIED.**

## **VII. RECEIPT OF APPLICATIONS - None**

- \* Amendment/Extension of Existing Permit
- \* Permitted Use As Of Right
- \* Jurisdictional Ruling (determination of permit needed)
- \* Inland Wetland Permit to Conduct Regulated Uses

## **VIII. MISCELLANEOUS**

A. Terrace Escarpment Workshop, September 8th @ 7:00pm, Location to be determined.

The date is September 15<sup>th</sup> at the East Windsor Town Hall

## **IX. AGENT DECISIONS**

## **X. VIOLATIONS (for action or show-cause hearing)**

## **XI. STATUS REPORTS**

**A. 227 East Road, Francis Reichle, Jr.**

This was an anonymous complaint. A site visit will be conducted in the future by Ms. Rudek.

## **XII. BUDGET**

**XIII. ADJOURNMENT**

**MOTION: To adjourn at 11:45 p.m.**

**Made by Ms. Kehoe, seconded by Mr. Koczera**

**ALL MEMBERS IN FAVOR. MOTION CARRIED**

Respectfully submitted

Cynthia D. Croxford